



UNITED STATES PATENT AND TRADEMARK OFFICE

7
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

21 FEB 2006

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of
CAMPBELL et al. : DECISION ON
Application No.: 10/530,209 :
PCT No.: PCT/NZ03/00222 : PAPERS
Int. Filing Date: 03 October 2003 :
Priority Date: 04 October 2002 : UNDER 37 CFR 1.42
Attorney's Docket No.: 4501-1016 :
For: THERAPEUTIC USES OF B-CASEIN A2 AND
DIETARY SUPPLEMENT CONTAINING B-CASEIN A2:

This is a decision on the submission filed by applicants on 01 November 2005, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in this declaration that inventor Corran Norman Stuart McLACHLAN is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 03 October 2003, applicants filed international application PCT/NZ03/00222 which claimed a priority date of 04 October 2002 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 April 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 April 2005.

On 04 April 2005, applicants filed, *inter alia*, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date and an assertion of small entity status.

On 02 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 01 November 2005, applicants filed the instant submission which was accompanied by,

inter alia, a declaration of the inventors. The indication in this declaration that inventor Corran Norman Stuart McLACHLAN is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 01 November 2005 fails to comply with 37 CFR 1.497(a)-(b). The declaration does not include the citizenship of the person(s) signing on behalf of the deceased inventor (37 CFR 1.497(b)(2)). The declaration includes the residence (New Zealand) and mailing address of Ulrike McLACHLAN but not the citizenship.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."


Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459